IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17860 of 2004

Between:

Amal College, Anakapally, Visakhapatnam Dist. rep.by its Correspondent

P.Sunil,
S/o.P.Venkat, R/o.Anakapally,
Visakhapatnam Dist.

..... PETITIONER

AND

1 Recovery officer, O/o.Recovery officer, Employees' provident Fund Organisation, Sub Regional office, V.U.D.A.Layout, Marripalem, Visakhapatnam.
2 Authorised officer, Employees' Provident Fund Organisations, Sub Regional Office, V.U.D.A.Layout, Marripalem, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ direction or order one more particularly writ of certiorari calling for the records relating to the provident Fund of the petitioner as per the reference number AP/RECY/7529/VSP/ 2004/162 from the office of the 1st Respondent and set aside the notices of demand issued by the 1st respondent as per the certificate of 2nd respondent in reference No.AP/RECY/7529/VSP/2004/162, dated 06-08-2004 and reference No.AP/RECY/7529/VSP/PF/2004 undated as arbitrary, unjust, illegal and in violation of the provisions of Employees' provident Fund and Miscellaneous provisions Act, 1952 and the Rules framed there under and the principles of Natural Justice.

Counsel for the Petitioner:MR.M.VENKATA NARAYANA
Counsel for the Respondent No.: MR.R.N.REDDY

The Court at the stage of admission made the following ORDER:

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

This writ petition is filed seeking Certiorari calling for the records relating to the provident fund of the petitioner as per the Reference No. AP/RECY/7529/VSP/2004/162 from the office of the first respondent and set aside the notices of demand issued by the first respondent as per the certificate of the second respondent.

Having heard the learned counsel on either side and having perused the material available on record, it is evident that against the impugned notice dated 06.08.2004, the petitioner already preferred an appeal before the Employees' Provident Fund Appellate Tribunal, New Delhi and since the Tribunal is not functioning, the petitioner approached this Court by filing the present writ petition seeking the same relief, which is the subject matter of the appeal.

It is fairly well settled in *BOMBAY METROPOLITAN REGION DEVELOPMENT AUTHORITY, BOMBAY v. GOKAK PATEL VOLKART LIMITED AND OTHERS* that when the appeal before the statutory authority is pending, the writ petition for the very same relief cannot be entertained. At the most, this Court can direct the authorities concerned to dispose of the appeal pending.

In view of the same and since the Tribunal is not functioning, interest of justice would be met, if the petitioner deposits 50% of the amount demanded in the impugned notice dated 06.08.2004, within a period of eight weeks from today, no coercive steps shall be taken for due recovery of the amount until the appeal is disposed of. The amount so deposited is subject to the final orders that may be passed in the appeal pending before the Tribunal.

With the above observation, the writ petition is disposed of.

05.10.2004

ksld

To

1 Recovery officer, O/o.Recovery officer, Employees' provident Fund Organisation, Sub Regional office, V.U.D.A.Layout, Marripalem, Visakhapatnam.

2 Authorised officer, Employees' Provident Fund Organisations, Sub

Regional Office, V.U.D.A.Layout, Marripalem, Visakhapatnam.

3 The Employees Provident Fund Appellate ribunal, New Delhi.

4 The Assistant Provident Fund Commissioner, Vizag.

5 Two CD copies.